

## **DETAILED ACTION**

### ***The Preliminary Amendment***

Receipt is acknowledged of the preliminary amendment filed on June 1, 2005. The amendment has been made of record in the file.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d), which papers have been placed of record in the file.

### ***The Information Disclosure Statement***

The prior art cited in the information disclosure statement filed on February 21, 2006 has been considered.

### ***The Drawings***

The drawings are objected to under 37 CFR § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the catheter, means to obtain tissue samples, means to treat tissue and/or means used in surgical procedures specified in claim 55 must be shown or the features canceled from the claim. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR § 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New

Art Unit: 2877

Sheet” pursuant to 37 CFR § 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 51, 57 and 62 are objected to because of the following informalities:

With respect to line 1 of claim 51 “by using” in line 1 should be --comprises--.

With respect to line 1 of claim 57, “of” (second occurrence) should be cancelled.

With respect to lines 3 of claim 62, “one of claims” should be --claim-- because only one claim is referenced.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 57-61 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 57-59 are incomplete in that independent claim 57 fails to set forth a method of using an instrument for measuring a Raman signal of a tissue in **active steps**. The claims merely set forth the components of the instrument.

Claim 60 is incomplete in that it fails to set forth a method of producing and measuring a Raman signal of tissue in **active steps for an end result**.

Claim 61 is incomplete in that it depends from cancelled claim 1.

### ***Allowable Subject Matter***

Claims 47-50, 52-56 are allowed over the prior art of record.

Art Unit: 2877

As to independent claim 47, the prior art of record, taken alone or in combination, fails to disclose or render obvious an instrument for measuring a Raman signal of tissue comprising a fiber or fibers for collecting light having substantially no Raman signal in one or more parts of the 2500-3700 cm<sup>-1</sup> spectral region, and wherein the detection unit records the Raman signal scattered by the tissue in said spectral region, the instrument further comprising a signal analysis unit which analyses the recorded Raman signal in one or more parts of the 2500-3700 cm<sup>-1</sup> spectral region, in combination with the rest of the limitations of the claim.

Claims 57-60 and 62 would be allowable if rewritten or amended to overcome the objections and/or rejections under 35 U.S.C. § 112, 2nd paragraph, set forth in this Office action.

***Telephone Numbers***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (571) 272-2414.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/F. L. Evans/  
Primary Examiner  
Art Unit 2877**

June 16, 2008